

## REMARKS

In response to the Final Office Action dated October 22, 2008, claims 1-168 have been canceled and new claims 169-199 have been added. Claims 169-199 are pending in the application.

In paragraph 3 on page 4 of the Office Action, claims 121-128, 131-136, 141-143, 145, 149, 151, 153-157, 163-164 and 166-168 were rejected under 35 U.S.C. § 103(b) as being unpatentable over Herz et al. in view of Alexander et al. in view further view of Yuen et al.

In paragraph 4 on page 21 of the Office Action, claims 100-103, 108-110, 116, 117, 129, 130 and 150 were rejected under 35 U.S.C. § 103(b) as being unpatentable over Herz et al. in view of Hendricks et al. in view further view of Yuen et al.

In paragraph 5 on page 30 of the Office Action, claims 104-107 were rejected under 35 U.S.C. § 103(b) as being unpatentable over Herz et al. in view of Hendricks et al. in view further view of Yuen et al and Alexander et al.

In paragraph 6 on page 31 of the Office Action, claims 111-115 were rejected under 35 U.S.C. § 103(b) as being unpatentable over Herz et al., Hendricks et al., Yuen et al. and Alexander et al. in further view of Gerace.

In paragraph 7 on page 34 of the Office Action, claims 137-139 and 147 were rejected under 35 U.S.C. § 103(b) as being unpatentable over Herz et al., Yuen et al. and Alexander et al. in further view of Barrett.

Applicant respectfully traverses the rejections, but in the interest of expediting prosecution has canceled claims 100-168 and added new claims 169-199.

Independent claim 169 sets forth gathering user-related profile data by monitoring interactions between an iTV user and an iTV to extract data received at the iTV, data transmitted by the user from the iTV and interactions between the user and the iTV. The gathered user-related profile data is stored in an interaction database. The gathered user-related profile data in the interaction database is periodically retrieved. A profile associated with the user of the iTV is built based on retrieving the gathered user-related profile data in the interaction database and data in a local categorized program database. Programming recommendations are presented in an interactive program guide having programs rearranged to reflect a predicted interest of the user based on the profile associated with the user. Independent claims 180 and 190 set forth similar elements.

In contrast, Herz et al. merely teach a system for delivering programs, where each customer has a profile to effectively target programming. However, Herz et al. fail to suggest gathering user-related profile data by monitoring interactions between an iTV user and an iTV to extract data received at the iTV, data transmitted by the user from the iTV and interactions between the user and the iTV. Herz et al. do not extract data received at an iTV or extract data transmitted by the user from the iTV. Moreover, Herz et al. do not extract data regarding interactions between the user and the iTV. Rather, Herz et al. only disclose gathering data regarding programs requested and watched by a user.

Herz et al. also fail to disclose, teach or suggest that the gathered user-related profile data in the interaction database is periodically retrieved. Herz et al. do not gather such data nor do Herz et al. periodically retrieve such data.

Herz et al. also fail to disclose, teach or suggest presenting programming recommendations in an interactive program guide having programs rearranged to reflect a predicted interest of the user based on the profile associated with the user. Herz et al. simply do not mention rearranging programs in an IPG to reflect a predicted interest of the user. Rather, the Office Action admits that Herz et al. is silent as to the arrangement of the guide information.

Thus, Herz et al. fail to disclose, teach or suggest the invention as defined in independent claims 169, 180 and 190.

Alexander et al. fail to overcome the deficiencies of Herz et al. Alexander et al. merely disclose a programming guide that presents channels to the user in an order that is based on the profile of the user. However, the presentation of channels preferred by the user is not the same as rearranging programs in an IPG to reflect a predicted interest of the user.

Thus, Herz et al. and Alexander et al., alone or in combination, fail to disclose, teach or suggest the invention as defined in independent claims 169, 180 and 190.

Yuen et al. fail to overcome the deficiencies of Herz et al. and Alexander et al. Yuen et al. is merely cited as collecting viewing and Internet histories and erasing all the raw information. However, as admitted in the Office Action, Yuen et al. fail to disclose, teach or suggest gathering user-related profile data by monitoring interactions between an iTV user and an iTV to extract data received at the iTV, data transmitted by the user from the iTV and interactions between the user and the iTV, storing the gathered user-related profile data in an interaction database, periodically retrieving the gathered user-related profile data in the interaction database, building a profile associated with the user of the

iTV based on retrieving the gathered user-related profile data in the interaction database and data in a local categorized program database and presenting programming recommendations in an interactive program guide presenting programs rearranged to reflect a predicted interest of the user based on the profile associated with the user.

Hendricks et al. fail to overcome the deficiencies of Herz et al., Alexander et al. and Yuen et al. Hendricks et al. is merely cited as teaching correlating the data with profile information from a rating service. However, Hendricks et al. fail to disclose, teach or suggest gathering user-related profile data by monitoring interactions between an iTV user and an iTV to extract data received at the iTV, data transmitted by the user from the iTV and interactions between the user and the iTV, storing the gathered user-related profile data in an interaction database, periodically retrieving the gathered user-related profile data in the interaction database, building a profile associated with the user of the iTV based on retrieving the gathered user-related profile data in the interaction database and data in a local categorized program database and presenting programming recommendations in an interactive program guide presenting programs rearranged to reflect a predicted interest of the user based on the profile associated with the user.

Strubbe fails to overcome the deficiencies of Herz et al., Alexander et al., Yuen et al. and Hendricks et al. Strubbe is merely cited as disclosing downloading data in a database into the memory section. However, Strubbe is silent regarding the elements set forth in the independent claims as recited above.

Gerace fails to overcome the deficiencies of Herz et al., Alexander et al., Yuen et al., Hendricks et al. and Strubbe. Gerace teaches building a profile and receiving a URL

of the previously viewed web page and storing cookies. However, Gerace is silent regarding the elements set forth in the independent claims as recited above.

Barrett fails to overcome the deficiencies of Herz et al., Alexander et al., Yuen et al., Hendricks et al., Strubbe and Gerace. Barrett is merely cited for teaching the correlating of interests and confidence of information. However, Barrett is also silent regarding the elements set forth in the independent claims as recited above.

Thus, Herz et al., Alexander et al., Yuen et al., Hendricks et al., Strubbe, Gerace and Barrett, alone or in combination, fail to disclose, teach or suggest the invention as defined in new independent claims 169, 180 and 190 .

Dependent claims 170-179, 181-189 and 191-199 are also patentable over the references, because they incorporate all of the limitations of the corresponding independent claims 169, 180 and 190, respectively. Further dependent claims 170-179, 181-189 and 191-199 recite additional novel elements and limitations. Applicant reserves the right to argue independently the patentability of these additional novel aspects. Therefore, Applicant respectfully submits that dependent claims 170-179, 181-189 and 191-199 are patentable over the cited references.

On the basis of the above amendments and remarks, it is respectfully submitted that the claims are in immediate condition for allowance. Accordingly, reconsideration of this application and its allowance are requested.

If a telephone conference would be helpful in resolving any issues concerning this communication, please contact Attorney for Applicant, David W. Lynch, at 865-380-5976. If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 13-2725

for any additional fee required under 37 C.F.R. §§ 1.16 or 1.17; particularly, extension of time fees.

Respectfully submitted,

Merchant & Gould  
P.O Box 2903  
Minneapolis, MN 55402-2903  
865-380-5976

Date: February 25, 2009



By: \_\_\_\_\_  
Name: David W. Lynch  
Reg. No.: 36,204

**23552**

PATENT TRADEMARK OFFICE